

## HOUSE BILL NO. 381

INTRODUCED BY M. MILLER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING TAX INCENTIVES FOR INDIVIDUAL MEDICAL CARE; ALLOWING AN INDIVIDUAL INCOME TAX CREDIT FOR MEDICAL CARE EXPENSES PAID BY THE TAXPAYER; PHASING OUT THE CREDIT FOR TAXPAYERS WHOSE GROSS HOUSEHOLD INCOME EXCEEDS CERTAIN POVERTY LEVEL GUIDELINES; PROVIDING THAT THE CREDIT MAY BE CARRIED FORWARD UNTIL USED; ALLOWING ALL TAXPAYERS TO DEDUCT MEDICAL CARE EXPENSES IN DETERMINING NET TAXABLE INCOME; AMENDING SECTION 15-30-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Credit for medical care expenses.** (1) Subject to the conditions of this section, there is a tax credit against the taxes otherwise due under this chapter for the expenses paid for medical care, as defined in 26 U.S.C. 213(d), of the taxpayer and the taxpayer's spouse and dependents to the extent that expenses are not compensated or reimbursed by other sources, including but not limited to health insurance or a premium assistance payment made under Title 33, chapter 22, part 20.

(2) The amount of the credit is equal to the expenses paid for medical care in the tax year. Except as provided in subsections (3) through (5), the amount of the credit may not exceed \$1,000 for a household.

(3) For a taxpayer whose gross household income is equal to or exceeds 180% of the federal poverty guidelines reported in the tax year in the Federal Register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2), the amount of the credit for the household is equal to the maximum credit allowed under this section multiplied by the decimal equivalent of a percentage figure according to the following table:

Family Income Based on Federal Poverty Guidelines	Percentage of credit
180%-less than 186%	90%
186%-less than 191%	75%
191%-less than 201%	60%
201%-less than 216%	50%

1	216%-less than 226%	35%
2	226%-less than 236%	20%
3	236%-less than 246%	10%
4	246%-less than 250%	5%
5	250% or greater	0%

6 (4) (a) A deduction or a credit is not allowed under any other provision of this chapter with respect to any  
7 amount for which a credit is allowed under this section.

8 (b) The credit may not be taken for medical care expenses paid from a medical care savings account  
9 provided for in Title 15, chapter 61.

10 (5) The credit allowed under this section may not be refunded if the taxpayer has a tax liability less than  
11 the amount of the credit.

12 (6) The credit allowed under this section may be used as a carryforward against the taxes imposed by  
13 this chapter. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by this section  
14 for the tax year exceed the taxpayer's tax liability for the current tax year, the excess attributable to the current  
15 tax year's credit is a credit carryover until the entire amount of the credit is used. The entire amount of unused  
16 credit must be carried forward to the earliest of the succeeding years, and the oldest available credit must be  
17 used first.

18 (7) The tax credit allowed under this section may not be claimed by a part-year resident or a nonresident.

19 (8) For the purposes of this section:

20 (a) "gross household income" has the meaning provided in 15-30-171; and

21 (b) "income" has the meaning provided in 15-30-171.

22

23 **NEW SECTION.** **Section 2. Medical deduction.** A taxpayer who elects the standard deduction under  
24 15-30-122 is allowed an additional deduction in computing net taxable income for expenses paid for medical care  
25 as provided in 26 U.S.C. 213, except for medical expenses deducted in determining Montana adjusted gross  
26 income or for which a credit was claimed under 15-30-128 or [section 1].

27

28 **Section 3.** Section 15-30-121, MCA, is amended to read:

29 **"15-30-121. Deductions allowed in computing net income.** (1) In computing net income, there are  
30 allowed as deductions:

(a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code, 26 U.S.C. 161 and 211, subject to the following exceptions, which are not deductible:

- (i) items provided for in 15-30-123;
- (ii) state income tax paid;
- (iii) ~~premium payments for medical care expenses~~ as provided in subsection (1)(g)(i); and
- ~~(iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii); and~~
- ~~(v)(iv)~~ a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift annuity as defined in 33-20-701;

(b) federal income tax paid within the tax year, not to exceed \$5,000 for each taxpayer filing singly, head of household, or married filing separately or \$10,000 if married and filing jointly;

(c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as follows:

- (i) expenses for household and dependent care services necessary for gainful employment incurred for:
  - (A) a dependent under 15 years of age for whom an exemption can be claimed;
  - (B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to provide self-care because of physical or mental illness; and

- (C) a spouse who is unable to provide self-care because of physical or mental illness;
- (ii) employment-related expenses incurred for the following services, but only if the expenses are incurred to enable the taxpayer to be gainfully employed:

- (A) household services that are attributable to the care of the qualifying individual; and
- (B) care of an individual who qualifies under subsection (1)(c)(i);
- (iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an individual or, if the individual is married during the applicable period, is furnished by the individual and the individual's spouse;

- (iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:
  - (A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during the year only to the extent that the expenses do not exceed \$4,800;

- (B) expenses for services in the household are deductible under subsection (1)(c)(i) for

1 employment-related expenses only if they are incurred for services in the taxpayer's household, except that  
2 employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if  
3 incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that the  
4 expenses incurred during the year do not exceed:

5 (I) \$2,400 in the case of one qualifying individual;

6 (II) \$3,600 in the case of two qualifying individuals; and

7 (III) \$4,800 in the case of three or more qualifying individuals;

8 (v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during  
9 which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by  
10 one-half of the excess of the combined adjusted gross income over \$18,000;

11 (vi) for purposes of this subsection (1)(c):

12 (A) married couples shall file a joint return or file separately on the same form;

13 (B) if the taxpayer is married during any period of the tax year, employment-related expenses incurred  
14 are deductible only if:

15 (I) both spouses are gainfully employed, in which case the expenses are deductible only to the extent  
16 that they are a direct result of the employment; or

17 (II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);

18 (C) an individual legally separated from the individual's spouse under a decree of divorce or of separate  
19 maintenance may not be considered as married;

20 (D) the deduction for employment-related expenses must be divided equally between the spouses when  
21 filing separately on the same form;

22 (E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year  
23 and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not  
24 deductible as employment-related expenses;

25 (d) in the case of an individual, political contributions determined in accordance with the provisions of  
26 section 218(a) and (b) of the Internal Revenue Code of 1954 (now repealed) that were in effect for the tax year  
27 that ended December 31, 1978;

28 (e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed  
29 as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;

30 (f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject to

1 the conditions set forth in 15-30-156;

2 (g) the entire amount of ~~premium~~ payments made by the taxpayer for medical care, as defined in 26  
3 U.S.C. 213(d), except premiums deducted in determining Montana adjusted gross income; or for which a credit  
4 was claimed under 15-30-128 or [section 1], ~~for:~~

5 ~~—— (i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the~~  
6 ~~taxpayer's dependents, and the parents and grandparents of the taxpayer;~~

7 and

8 ~~—— (ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified~~  
9 ~~long-term care services, as defined in 26 U.S.C. 7702B(c), for:~~

10 ~~(A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or~~

11 ~~(B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the~~  
12 ~~taxpayer for tax years beginning after December 31, 1996;~~

13 (h) light vehicle registration fees, as provided for in 61-3-321(2) and 61-3-562, paid during the tax year;

14 and

15 (i) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209,  
16 81-7-118, or 81-7-201.

17 (2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home  
18 or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child  
19 and at least one unrelated child in the ordinary course of business may deduct employment-related expenses  
20 considered to have been paid for the care of the child.

21 (b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal  
22 to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours of  
23 care. The employment-related expenses apply regardless of whether any expenses actually have been paid.  
24 Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

25 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the  
26 deduction under this subsection (2)."

27  
28 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 and 2] are intended to be codified  
29 as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to  
30 [sections 1 and 2].

1

2 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

3

4 NEW SECTION. **Section 6. Retroactive applicability.** [This act] applies retroactively, within the

5 meaning of 1-2-109, to tax years beginning after December 31, 2008.

6 - END -